



Agenda Date: 1/9/02

Agenda Item: 4J

**STATE OF NEW JERSEY**

***Board of Public Utilities***

*Two Gateway Center  
Newark, NJ 07102*

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION FOR AN )  
ORDER AUTHORIZING Z-TEL )  
TELECOMMUNICATIONS, INC. TO PROVIDE )  
LOCAL EXCHANGE AND EXCHANGE )  
ACCESS SERVICE )

**ORDER OF APPROVAL**

DOCKET NO. TE00030189

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated March 28, 2000, Z-Tel Communications, Inc. (Petitioner or Z-Tel) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange and exchange access services in the State of New Jersey. Petition at 1. Petitioner also responded to a Staff questionnaire by letter dated November 20, 2000 and to Staff interrogatories by letters dated February 12, 2001, March 16, 2001, May 1, 2001, May 21, 2001, July 10, 2001, October 9, 2001 and November 5, 2001.

According to the petition, Petitioner was incorporated under the laws of the State of Delaware on January 15, 1998 as Olympus Telecommunications Group. On April 2, 1998 the name was changed to Z-Tel Communications, Inc. Petition at 2. Petitioner's principal offices are located at 601 South Harbour Boulevard, Suite 220, Tampa, Florida 33602. Petition at 2.

Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 2, Exhibit A. According to the petition, Z-Tel was formed to provide local exchange and exchange access services. Petition at 1. Petitioner advised that it is currently authorized to provide facilities-based local exchange services in California, Georgia, Illinois, Maryland, Massachusetts, New York, Oregon, Pennsylvania, Texas and Washington. In addition, petitioner has authority to provide facilities-based local exchange service in twenty-four other states, but is not yet providing service. Petitioner is also providing interexchange service on a resold basis nationwide. Z-Tel states that it has not been denied authority to provide telecommunications services in any State. It did, however, receive a Notice of Inquiry with regard to slamming in New York in 1999. In its answer to the New York Notice of Inquiry, Z-Tel described its implementation of a number of improvements in its marketing methods. Z-Tel has made significant changes in its marketing practices, which have resulted in significantly fewer

complaints than in the past. Among these changes are that telemarketing when done is now done through Z-Tel's own subsidiary rather than outside marketing firms and that additional verification checks are now made on all telephone orders. The New York PSC has not raised any further questions nor pursued any further actions with petitioner. Z-Tel states that it has no other pending civil, criminal or administrative action against it. Petition at 6. Letters dated March 16, 2001 and November 5, 2001.

Petitioner plans to opt into the MCI Agreement with Verizon New Jersey. November 20, 2000. Letter at 5.

Petitioner advised that it seeks authority to provide local exchange and exchange access telecommunications services to customers throughout New Jersey. Petitioner will also offer its local service bundled with custom calling features, and enhanced services such as voicemail and toll service (on a resale basis only). Z-Tel will offer service through the lease of unbundled network elements purchased from ILECs.

Petitioner requested a waiver of N.J.A.C. 14:1-15 and 14:10-1.16, which require keeping books and records in New Jersey and the maintenance of these records according to the Uniform System of Accounts (USOA). Petitioner wishes to maintain its books and records at its principle offices in Tampa, Florida, and to keep those books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner maintains that keeping its books and records in New Jersey and according to USOA would be unduly burdensome. Petitioner has agreed to provide the Board, in New Jersey, any books and records desired and reimburse the Board for any expenses accrued in viewing them. Petition at 7,8.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 9. Petitioner also asserted that approval of this petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will facilitate economic development in the State of New Jersey. Petition at 5.

With regard to its technical and managerial qualifications, Z-Tel stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 6. Petitioner submitted the professional biographies of its key personnel who, according to Petitioner, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. Petition at 6, Exhibit D.

Petitioner stated that it has access to the financial capital to conduct the telecommunications operations of the requested services and has submitted the prospectus of its parent company and two years pro forma income statements for its New Jersey operations as evidence of its financial ability.

The Division of the Ratepayer Advocate, by letter dated June 28, 2000, recommended approval of this petition.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Z-Tel's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and exchange access telecommunications services in New Jersey subject to submission of two years pro forma balance sheets for its New Jersey operations and approval of its tariff. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board.

Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements to maintain its books and records under the USOA and within New Jersey.

Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemption from maintaining its books and records in New Jersey and under the USOA.

DATED: 1/10/02

BOARD OF PUBLIC UTILITIES  
BY:

(signed)  
CONNIE O. HUGHES  
PRESIDENT

(signed)  
CAROL J. MURPHY  
COMMISSIONER

(signed)  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)  
HENRY M. OGDEN  
ACTING BOARD SECRETARY

**Service List**

**Docket No. TE00030189**

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